IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

1. CIVIL MISC. APPEAL No. 16 of 2005

R.S.R.T.C.
V/S
SHAMBU LAL & ORS

2. CIVIL MISC. APPEAL NO.1802/2004

R.S.R.T.C.
V/S
SHAMBHU LAL & ORS

Mr. VK MATHUR, for the appellant / petitioner

Date of Order : 28.1.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Both the appeals arise out of same Judgment, which in turn decide two claims, arising out of same accident, and are being decided by common order.

Heard learned counsel for the parties, and perused the impugned Judgment.

It is contended by learned counsel for the appellant that the learned Tribunal was in error in deciding the question of negligence of the driver, inasmuch as, accident occurred at a very short distance, after the Railway crossing gate, which was followed by speed breakers, and therefore, bus could not get speed.

Suffice it to say, the learned Tribunal has only considered the question of negligence in detail, and has noticed that though there is no evidence on record on the side of claimants, but then from the documents available on record coupled with the statement of bus driver, being NAW-1 Gopal, it is clear that accident occurred on account of negligence of bus driver, inasmuch as, the Driver has deposed to the effect that motor cycle came from opposite direction at a very fast speed, and dashed with stationary bus. As a result of which, motor cycle slipped, and fell into the water-course, while in para no.29 of

the written statement, the plea taken is about there being no impact, and the motor cyclist, being in intoxicated condition slipped, and having fallen in water-course. Thus it has been noticed that there is variance in the pleadings and statement produced on the side of defendant. With this, it has further been noticed in Ex.3, site plan that there is no mention of any water-course, rather from Ex.3, it is clear that the accident occurred as a result of bus being dashed against motor cycle.

Nothing has been shown from the side of the appellant.

No other point was argued.

The appeals thus have no force, and are dismissed summarily.

(N P GUPTA),J.

/Srawat/